

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name Woods, Robert V.

(Last)

(First)

(Initial)

Prisoner Number F-32883

Institutional Address High Desert St. Prison; P.O. Box 3030; Susanville, CA 96127

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA****(PR)**

Robert Vernon Woods

(Enter the full name of plaintiff in this action.)

vs.

Wardens, CDCR, Tom Felker, Warden, High Desert

State Prison.

(Enter the full name of respondent(s) or jailor in this action)

Case No.

(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS****Read Comments Carefully Before Filling In****When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
 7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
 13 County Superior Court, Oakland):

14 Santa Clara Cty. Superior Court

San Jose, CA

15 Court

Location

16 (b) Case number, if known CC270577

17 (c) Date and terms of sentence June 14, 2006 -- 25 years to life

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
 19 parole or probation, etc.) Yes ☒ No ☐

20 Where?

21 Name of Institution: High Desert State Prison

22 Address: P.O. Box 3030; Susanville, CA 96127

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Simple possession of a minor amount of cocaine base; Health & Saf. Code, sec. 11350(a)

3. Did you have any of the following?

Arraignment: Yes ☒ No ☐

Preliminary Hearing: Yes ☐ No ☒

Motion to Suppress: Yes ☐ No ☒

4. How did you plead?

Guilty ☒ Not Guilty ☐ Nolo Contendere ☐

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury ☐ Judge alone ☐ Judge alone on a transcript ☐

6. Did you testify at your trial? Yes ☐ No ☒

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes ☒ No ☐

(b) Preliminary hearing Yes ☐ No ☒

(c) Time of plea Yes ☒ No ☐

(d) Trial Yes ☐ No ☒

(e) Sentencing Yes ☒ No ☐

(f) Appeal Yes ☒ No ☐

(g) Other post-conviction proceeding Yes ☐ No ☒

8. Did you appeal your conviction? Yes ☒ No ☐

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☒ No ☐

Year: 2007 Result: Affirmed (Appeal No. H030320)

Supreme Court of California Yes ☒ No ☐

Year: 2007 Result: Review denied (No. S154787)

Any other court Yes ☐ No ☒

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes ☒ No ☐

2 (c) Was there an opinion? Yes ☐ No ☐

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes ☐ No ☒

5 If you did, give the name of the court and the result:

6 _____
7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
9 this conviction in any court, state or federal? Yes ☐ No ☒

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: _____

19 Type of Proceeding: _____

20 Grounds raised (Be brief but specific):

21 a. _____

22 b. _____

23 c. _____

24 d. _____

25 Result: _____ Date of Result: _____

26 II. Name of Court: _____

27 Type of Proceeding: _____

28 Grounds raised (Be brief but specific):

1 a. _____
2 b. _____
3 c. _____
4 d. _____
5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____
13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____
21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No _____

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: Arbitrary refusal to exercise state law discretion to reduce Third Strike sentence
6 for minor drug possession, also violating due process.

7 Supporting Facts: The court acted arbitrarily in refusing to mitigate a 25-life term for minor
8 drug possession for an older, newly mentally ill/homeless offender. The error deprived the
9 defendant of fundamental fairness in state sentencing, his liberty interest in non-arbitrary
10 exercise of discretion, and, thus of due process.

11 Claim Two: Imposition of 25 years to life for possession of a small amount of cocaine on an
12 older, newly mentally ill/homeless offender was cruel and unusual punishment.

13 Supporting Facts: Unlike the recent US Supreme Court Three Strikes cases, imposition of
14 25 years to life on an older, newly mentally ill/homessless offender for pathetic possession of
15 a small amount of cocaine found as he was seeking help from police constituted cruel and
16 unusual punishment.

17 Claim Three: _____

18 _____
19 Supporting Facts: _____
20 _____
21 _____
22 _____

23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 _____
26 _____
27 _____
28 _____

List, by name and citation only, any cases that you think are close factually to yours so that they are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning of these cases:

Ramirez v. Castro (9th Cir. 2004) 365 F.3d 755; Banyard v. Duncan (C.D. Cal. 2004) 342 F.Supp.2d 865; Solem v. Helm (1983) 463 U.S. 277; Pennsylvania v. Ashe (1937) 302 U.S. 51.

Do you have an attorney for this petition? Yes _____ No ☒

If you do, give the name and address of your attorney:

No, I need a federal attorney due to mental health issues and problems understanding.

WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

Executed on 9-14-07

Date

Robert V. Woods

Signature of Petitioner

(Rev. 6/02)